

Message Text

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ACTION ARA-10

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FOR ARA/LA/CAR DIRECTOR JOHN BURKE FROM AMBASSADOR ISHAM

E. O. 11652: N/A

TAGS: EINV, ETEL, PINT, HA

SUBJECT: TELE-HAITI

REF: P-AU-P 240, STATE 020024

1. DURING CONVERSATION JANUARY 31 WITH FONMIN BRUTUS I RAISED TELE-HAITI MATTER, NOTING BRUTUS' REFERENCE DURING LAST WEEK'S CONVERSATION TO POSSIBILITY OF HAVING U.S. AUDITING FIRM APPOINTED TO ARRIVE AT INDEPENDENT EVALUATION OF TELE-HAITI ASSETS AS BASIS FOR COMPROMISE SOLUTION. BRUTUS QUICKLY RESPONDED THAT TELE-HAITI MATTER APPEARED TO BE DEAD ISSUE SINCE GOVT HAD MADE CLEAR ITS DESIRE TO HAVE TELE-HAITI CONTINUE OPERATIONS WITHOUT INTERRUPTION AND SINCE TELE-HAITI'S CLAIMS AS TO ITS NET WORTH HAD BEEN GREATLY EXAGGERATED.

2. I REVIEWED PROBLEM WITH BRUTUS, STRESSING THAT AMERICAN INVESTORS FELT THAT INJUSTICE HAD BEEN DONE TO THEM BY GOVT'S UNILATERAL ABROGATION OF EXCLUSIVITY PROVISION IN CONTRACT AND THAT THEIR ABILITY TO CONTINUE OPERATION AND OBTAIN NECESSARY BANK FINANCING HAD BEEN JEOPARDIZED BY THIS ACTION. I EXPRESSED CONCERN THAT FAILURE TO RESOLVE THESE DIFFICULTIES MIGHT HAVE REPERCUSSIONS ON HAITI'S FINANCIAL REPUTATION AND ABILITY TO

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ATTRACT RESPONSIBLE FOREIGN INVESTORS. A REPORT OF DIFFICULTIES

BETWEEN TELE-HAITI, WHOSE SHAREHOLDERS HAD EXCELLENT REPUTATION IN U.S., AND GOH WOULD LEND CREDENCE TO COMPLAINTS BY OTHER INDIVIDUALS THAT GOH DOES NOT ABIDE BY CONTRACTS INTO WHICH IT HAS ENTERED. I REVIEWED THE DIFFICULTIES CAUSED TELE-HAITI BY GOVT'S CANCELLATION OF EXCLUSIVITY PROVISION, NOTABLE NON-AVAILABILITY OF U.S. BANK LOANS TO FINANCE NECESSARY IMPROVEMENTS AND CONSEQUENT INABILITY TO IMPROVE PROGRAMMING AND QUALITY OF TRANSMISSION WITH LIKELY DECREASE IN SUBSCRIBERS ONCE ANOTHER TELEVISION STATION IS ESTABLISHED.

3. I THEN REVIEWD TWO OF THE SOLUTIONS PROPOSED BY INVESTORS, WITH GOVT PAYMENT (OR INDEMNIFICATION FOR LOSS OF EXCLUSIVITY) ENABLING COMPANY TO BECOME VIABLE ENTERPRISE DESPITE EVENTUAL ENTRY OF A COMPETITIVE STATION INTO MARKET; OR PURCHASE OF U.S.-OWNED SHARES OR COMPANY BY GOH ENABLING GOVT TO OPERATE ITS OWN STATION AND DEVELOP PROGRAMS FOR EDUCATIONAL AND CULTURAL DEVELOPMENT OF HAITIAN PEOPLE. I CONCLUDED BY DRAWING HIS ATTENTION TO OPPORTUNITY FOR COMPROMISE PRESENTED BY U.S. LAWYERS SUGGESTION THAT INDEPENDENT ACCOUNTANTS AND TECHNICIANS BE ASKED TO PLACE A VALUE ON TELE-HAITI AS GOING CONCERN ON THE BASIS OF WHICH GOH COULD EITHER PURCHASE COMPANY OR ARRIVE AT AGREED REIMBURSEMENT TO TELE-HAITI FOR LOSS OF EXCLUSIVE RIGHT. I LEFT TALKING PAPER WITH BRUTUS, CONTAINING FOREGOING POINTS.

4. BRUTUS LISTENED CAREFULLY, REITERATING HIS DESIRE TO BE HELPFUL WHILE DISCLAIMING HIS COMPETENCE IN MATTER. HE APPEARED TO ACCEPT MY EXPLANATION THAT WHAT WAS AT ISSUE WAS NOT WHETHER GOH WOULD REVERSE ITS ACTION ABROGATING EXCLUSIVITY, BUT WHAT TERMS COULD BE REACHED ENABLING THE STATION TO OPERATE IN ACCORDANCE WITH MUTUAL INTERESTS OF BOTH PARTIES. BRUTUS SUGGESTED THAT MATTER BE DISCUSSED AT MEETING HE OFFERED TO ARRANGE MIDDLE OF NEXT WEEK WITH MINISTER JEANTY, WHO, AS DEPT IS AWARE, HAS CONDUCTED NEGOTIATIONS. BRUTUS AGREED WITH DESIRABILITY OF FINDING A SOLUTION AND FELT SURE THAT THE GOVT REMAINED PREPARED TO HAVE FURTHER DISCUSSIONS WITH U.S. INVESTORS.

5. ACTION REQUESTED: DEPT WILL WISH TO CONVEY SUBSTANCE OF FOREGOING TO U.S. ATTORNEY FOR TELE-HAITI DURING SCHEDULED MEETING FEBRUARY 3 IN DEP. WE WOULD APPRECIATE CABLED REPORT OF ATTORNEY'S COMMENTS IN LIGHT OF THIS EXCHANGE WITH BRUTUS AND PROSPECTIVE LIMITED OFFICIAL USE

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MEETING WITH JEANTY, PARTICULARLY TAKING INTO CONSIDERATION EMBASSY LEGAL ASSISTANT'S CONCLUSION THAT GOH IS JUSTIFIED IN ITS CLAIM THAT EXCLUSIVE PRIVILEGES GRANTED TO TELE-HAITI DO NOT CONSTITUTE PROPERTY RIGHTS (P-AU-P 240). FROM MY CONVERSATION WITH BRUTUS I SUSPECT THAT LINE OF ARGUMENT MOST LIKELY PRODUCE TANGIBLE RESULTS FROM GOH IS NOT LEGAL NICETIES OF THE MATTER SO MUCH AS BROADER IMPLICATIONS FOR GOH RESPECTABILITY WITH INVESTOR COMMUNITY, AND WITH CONGRESSIONAL OPINION. BRUTUS

ALSO SEEMED PLEASED WHEN I REPORTED TO HIM PLANS FOR UPGRADING
PROGRAMMING UNDER NEW U.S. MANAGER HATTON. SINCE THE PRINCIPLE
OF SUBSIDY BY THE STATE REMAINS IN THE CONTRACT, IT MIGHT BE
THAT THIS PRINCIPLE RATHER THAN THAT OF INDEMNIFICATION, WHICH
THE GOH NOW CONTESTS, COULD PROVIDE THE FRAMEWORK FOR SUBSTANTIAL
PAYMENT TO TELE-HAITI ENABLING IT TO DEMONSTRATE ITS ENHANCED
UTILITY TO GOVERNMENT AND GAIN TIME TO EXPLORE QUESTION OF ACCESS
TO FUTURE EARTH SATELLITE TRANSMISSIONS. IN ANY CASE, BRUTUS
EVINCED CONTINUED SENSITIVITY TO PROSPECT THAT GOVERNMENT ACTIONS
THIS CASE MIGHT BE VIEWED AS TANTAMOUNT TO EXPROPRIATION.
ISHAM

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